

ESTTA Tracking number: **ESTTA470089**

Filing date: **05/01/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	ChristinaSukljian
Granted to Date of previous extension	05/02/2012
Address	13 Manor Street Albany, NY 12207 UNITED STATES
Correspondence information	ChristinaSukljian 13 Manor Street Albany, NY 12207 UNITED STATES info@zela.com, zelaintl.co@verizon.net

Applicant Information

Application No	85215017	Publication date	01/03/2012
Opposition Filing Date	05/01/2012	Opposition Period Ends	05/02/2012
International Registration No.	NONE	International Registration Date	NONE
Applicant	Ate My Heart Inc. c/o Jeff Gillman, Gelfand, Rennert et al 1880 Century Park East, Suite 1600 Los Angeles, CA 90067 UNITED STATES		

Goods/Services Affected by Opposition

Class 003.

All goods and services in the class are opposed, namely: Soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices; color cosmetics; facial cosmetics; decorative transfers for cosmetic purposes; non-mediated skin care preparations; body and foot care products, namely, beauty milks, skin moisturizers and skin moisturizer masks, skin conditioners, hand creams, massage oils, essential oils for personal use, talcum powder, perfumed powders, face wash, skin cleansers, skin highlighting cream, body scrubs, body fragrances, fragrances for personal use, body and hand lotions, body gels, body oils, body powders, body exfoliants, body masks, body mask creams and lotions, shaving preparations, after shave lotions, shaving balm, shaving cream, shaving gel, skin abrasive preparations, non-medicated skin creams and skin lotions for relieving razor burns, non-medicated lip care preparations, lip cream, non-medicated sunscreen preparations, suntanning preparations and after-sun lotions; fragrances; bath salts; cosmetic preparations for baths; body and shower products, namely, bath beads, bath crystals, bath foam, bath gels, bath oils, bath powders, shower gels, cosmetic soaps, perfumed soaps, liquid soaps, hand, facial and bath soaps, deodorant soaps, shaving soaps, soap powder, toilet soaps, soaps for body care, soaps for personal use, shampoos, conditioners, hair mousse, hair frosts, hair rinses, hair sprays, hair color, hair waving lotion, permanent wave preparations, hair lighteners, hair dyes, hair emollients, hair mascara, hair

pomades, hair color removers, hair relaxing preparations, hair styling preparations, hair removing cream, and hair care preparations; body, face, skin and foot lotions and creams; non-medicated toiletries; colognes; eau de toilettes; body firming gels and lotions; nail varnishes; lipsticks; makeup; sun block; deodorants for personal use; perfumed paper in the nature of pot pourri and pomanders containing perfumed preparations and mixtures; eau de parfum; toilet water; talcum powder; hair care preparations; non-medicated preparations for the care and conditioning of the body, skin, and scalp; bubble bath, bath gel, bath oil and shower gel

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2898544	Application Date	08/27/2001
Registration Date	11/02/2004	Foreign Priority Date	NONE
Word Mark	GAGA PURE PLATINUM		
Design Mark	<p style="text-align: center;">GAGA PURE PLATINUM</p>		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2000/07/23 First Use In Commerce: 2001/06/07 Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara		

Related Proceedings	Cancellation No. 92055279
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Attachments	76305015#TMSN.gif (1 page)(bytes) Notice Of Opposition with Haus of Gaga Serial No 85215017.pdf (8 pages)(258421 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Christina Sukljan/
Name	ChristinaSukljan
Date	05/01/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 85215017
Mark: HAUS OF GAGA
Published in the Official Gazette on January 3, 2012

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Christina Sukljian,	:
	:
Opposer,	:
	:
v.	:
	:
Ate My Heart Inc.,	:
	:
Applicant.	:
-----X	

NOTICE OF OPPOSITION

By order of the Board dated February 29, 2012, Christina Sukljian, Opposer and Owner of the federally registered trademark GAGA PURE PLATINUM®, was allowed until May 2, 2012 in which to oppose the above-reference application. Christina Sukljian, an individual at 13 Manor Street, Albany, NY 12207, believes that she would be damaged by the issuance of a registration for the mark, shown in Application Serial No. 85215017, HAUS OF GAGA in International Class 003, covering identical and related cosmetics goods and therefore opposes the same. As grounds for its opposition, Opposer, alleges as follows:

I: Background on Christina Sukljian

- 1) GAGA PURE PLATINUM® is a federally registered trademark, U.S. Registration No. 2898544 in International Class 003, invented and created in the year 2000, filed for registration on August 22, 2001 and registered on November 2, 2004 with a date of first use in commerce of June 7, 2001, owned by the Opposer, internationally recognized cosmetics and beauty industry maven and second generation cosmetics purveyor, Christina Sukljian p/k/a Cristina Samuels.
- 2) Christina Sukljian p/k/a Cristina Samuels has more than 17 years of experience in the cosmetics industry with a broad background in product development, marketing and sales. Before joining Zela International formally in 1995 she honed her skills and was educated in all facets of the cosmetics industry in her family cosmetics company, Zela International. In 1996 she joined the marketing team and developed and implemented innovative product packaging and marketing programs to increase the company's sales and profits for various color cosmetics lines including Mode Couleurs and Little Gems, and Zela. Under her leadership she created Mode, a natural color cosmetics line which pioneered the use of natural ingredients with fashion forward style, the first concept of its kind in the industry.
- 3) In 2000 Christina Sukljian p/k/a Cristina Samuels spearheaded the creation of GAGA PURE PLATINUM, an avant-garde cosmetics brand. Named after her brother's childhood nickname Gaga, GAGA PURE PLATINUM combined fashion, style and art with passion for color.
- 4) Christina Sukljian p/k/a Cristina Samuels has achieved prominence and accolades in the global cosmetics industry and has gained the attention of leading beauty editors of both consumer and industry magazines, including *Allure*, *GCI*, *Drug Store News*, and *WWD*, beauty and fashion websites and bloggers, including *Bella Sugar*, and through media appearances including Wnyt, Wten, Wrgb. She has been lauded for her fresh perspective in the beauty industry and as a result

of her efforts and achievements she has garnered the distinct honor and recognition of *GCI*® magazine (*Global Cosmetic Industry* magazine) as being selected as 1 of '20 To Know' in the global cosmetics industry. *GCI*® magazine has stated, "Cristina Samuels epitomizes the strengths of the beauty industry – continuity and tradition propelled by innovation and evolution."

- 5) In addition to her fresh perspective, as described by *GCI*® magazine (*Global Cosmetic Industry* magazine), and as a result of her achievements in the cosmetics industry, in 2008 Cristina Samuels was welcomed as the youngest member to join the magazine's editorial advisory board proudly contributing to one of the most respected and influential business magazines for the global beauty industry.

II: Applicant's Mark is *Confusingly Similar* to Registered Mark GAGA PURE PLATINUM

- 6) Since a date long prior to any date which Applicant can rely and before the existence of the Applicant, Opposer has been using the trademark GAGA PURE PLATINUM for Cosmetics; namely nail polish, lipstick, lip gloss, eye liner, lip liner, eye shadow, face powder, blush, mascara in International Class 3 for well over 11 years.
- 7) Opposer owns U.S. Registration No. 2898544 for the mark GAGA PURE PLATINUM, registered on November 2, 2004 in International Class 003 for Cosmetics; namely nail polish, lipstick, lip gloss, eye liner, lip liner, eye shadow, face powder, blush, mascara in International Class 003 with a date of first use in commerce of June 7, 2001. This registration is valid and in full force and effect and has become incontestable under Section 15 of the Lanham Act.
- 8) As a result of Opposer's use and registration of the GAGA PURE PLATINUM mark when used in connection with cosmetics and related goods in International Class 003 GAGA PURE PLATINUM has become uniquely associated with Opposer.

- 9) Applicant has applied for registration for the mark HAUS OF GAGA, U.S. Application Serial No. 85215017, as Intent to Use under 1B filing basis, in International Class 003 on January 11, 2011, a date long subsequent, in fact 10 years subsequent, to Opposer's date of first use of the GAGA PURE PLATINUM mark and thus, Opposer has superior priority over Applicant, for the following identical and related goods as identified by Applicant, Soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices; color cosmetics; facial cosmetics; decorative transfers for cosmetic purposes; non-mediated skin care preparations; body and foot care products, namely, beauty milks, skin moisturizers and skin moisturizer masks, skin conditioners, hand creams, massage oils, essential oils for personal use, talcum powder, perfumed powders, face wash, skin cleansers, skin highlighting cream, body scrubs, body fragrances, fragrances for personal use, body and hand lotions, body gels, body oils, body powders, body exfoliants, body masks, body mask creams and lotions, shaving preparations, after shave lotions, shaving balm, shaving cream, shaving gel, skin abrasive preparations, non-medicated skin creams and skin lotions for relieving razor burns, non-medicated lip care preparations, lip cream, non-medicated sunscreen preparations, suntanning preparations and after-sun lotions; fragrances; bath salts; cosmetic preparations for baths; body and shower products, namely, bath beads, bath crystals, bath foam, bath gels, bath oils, bath powders, shower gels, cosmetic soaps, perfumed soaps, liquid soaps, hand, facial and bath soaps, deodorant soaps, shaving soaps, soap powder, toilet soaps, soaps for body care, soaps for personal use, shampoos, conditioners, hair mousse, hair frosts, hair rinses, hair sprays, hair color, hair waving lotion, permanent wave preparations, hair lighteners, hair dyes, hair emollients, hair mascara, hair pomades, hair color removers, hair relaxing preparations, hair styling preparations, hair removing cream, and hair care preparations; body, face, skin and foot lotions and creams; non-medicated toiletries; colognes; eau de toilettes; body firming gels and lotions; nail varnishes; lipsticks; makeup; sun block. deodorants for personal use; perfumed paper in the nature of pot pourri and pomanders containing perfumed preparations and mixtures; eau de parfum; toilet water; talcum powder; hair care preparations; non-medicated preparations

for the care and conditioning of the body, skin, and scalp; bubble bath, bath gel, bath oil and shower gel.

- 10) Opposer will be damaged by trademark infringement and confusion and the presumptions flowing from the registration of the mark HAUS OF GAGA for identical and related goods, appearance, sound, connotation, and overall commercial impression as such registration diminishes the distinctiveness of the GAGA PURE PLATINUM trademark, an invented mark, invented by the Opposer long before Applicant was in existence, for which Opposer has exclusive rights for cosmetics and related products in International Class 3.
- 11) Applicant seeks to register an identical name, for identical and related goods, in an identical class as Opposer's registered mark and the similarities between the marks and the goods are so great that they create a likelihood of confusion. The GAGA PURE PLATINUM mark, Registration No. 2898544, will be adversely impacted, impeded, and gravely harmed because consumers will be confused and deceived by Applicant's identical pending mark HAUS OF GAGA, a newcomer, and will falsely believe with deception that Applicant's HAUS OF GAGA is of the same name and is connected and part of the brand GAGA PURE PLATINUM.
- 12) In addition, Applicant's pending mark, HAUS OF GAGA, is confusingly similar to Opposer's registered GAGA PURE PLATINUM mark and intended use of Applicant's mark, in International Class 003, for the goods identified in Applicant's registration is likely to cause confusion to the Opposer's registered mark GAGA PURE PLATINUM, as it deceives the purchasing public by creating the mistaken belief that Applicant's goods are connected, approved, endorsed, or sponsored by Opposer's GAGA PURE PLATINUM mark and that the registered GAGA PURE PLATINUM is the source of pending HAUS OF GAGA's goods and that the goods of pending HAUS OF GAGA are, in some other way, associated with GAGA PURE PLATINUM and is an extension or in some other way part of the GAGA PURE PLATINUM

brand all to grave injury and harm to business and adverse commercial impact to GAGA PURE PLATINUM due to use of an identical and similar mark by a newcomer. Applicant's English translation of HAUS OF GAGA is HOUSE OF GAGA and further implicates that HAUS OF GAGA is wholly part of, under the house or umbrella of GAGA PURE PLATINUM and or in some way connected and or affiliated with the federally registered mark GAGA PURE PLATINUM.

- 13) The uniqueness of the invented mark GAGA PURE PLATINUM, Registration No. 2898544, created by Christina Sukljian p/k/a Cristina Samuels in the year 2000 and registered in November 2, 2004, long before Applicant was in existence, and the uniqueness and originality of the invented GAGA PURE PLATINUM mark, in International Class 003, creates the overall commercial impression. GAGA PURE PLATINUM's originality and uniqueness of the coined and invented mark establishes it as a commercial brand name in International Class 003 which is impressed upon the minds of purchasers and remembered and referred to when making purchasing decisions. GAGA PURE PLATINUM is the trademark which is impressed upon the minds of purchasers and remembered and referred to when making purchasing decisions.
- 14) GAGA PURE PLATINUM's originality and uniqueness of the coined and invented mark, invented by the Opposer more than 10 years prior to Applicant, establishes it as a commercial brand name in International Class 3. GAGA is the first part of the mark GAGA PURE PLATINUM which is impressed upon the minds of purchasers and remembered and referred to when making purchasing decisions. Consumers associate and refer to the GAGA PURE PLATINUM brand as GAGA and GAGA Cosmetics. GAGA PURE PLATINUM is an invented mark, invented by Opposer in 2000, and GAGA PURE PLATINUM is the first and only brand name in International Class 3 that uses the invented GAGA mark in commerce for cosmetics.
- 15) Applicant has unsuccessfully attempted to register two (2) prior applied-for-marks in International Class 003 for cosmetics and related goods, LADY GAGA Serial No. 85115004 on

August 24, 2010 and LADY GAGA FAME Serial No. 85282752 on March 21, 2011, both of which were refused registration under Section 2(d) of the Trademark Act due to Likelihood Of Confusion with GAGA PURE PLATINUM because of the significant fact that the marks are highly similar because they both include the identical word, GAGA, in the same International Class 003 for identical and similar goods and refusal is maintained and continued under Section 2(d) based upon Registration No. 2898544 GAGA PURE PLATINUM.

- 16) Furthermore, this is Applicant's 3rd (third) attempt to register a mark that includes the significant identical word GAGA in International Class 003 for cosmetics and related goods and Applicant's applied mark HAUS OF GAGA will damage and cause severe Likelihood of Confusion, cause dilution, and cause deception with federally registered mark GAGA PURE PLATINUM.

WHEREFORE, Opposer requests that its Notice of Opposition be granted and that Application Serial No. 85215017 be denied and refused and that the Mark therein sought for the goods therein specified in International Class 3 be denied and refused.

The \$300 filing fee to file this Notice of Opposition has been paid electronically through ESTTA

Dated: Albany, New York
May 1, 2012

Respectfully submitted,

/Christina Sukljian/
Christina Sukljian
Owner
GAGA PURE PLATINUM
13 Manor Street
Albany, New York 12207
(518) 436-1833

CERTIFICATE OF PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Ate My Heart, Inc. by mailing said copy on May 1, 2012 via The United States Postal Service Priority Mail with Signature Confirmation in a USPS Priority Mail Envelope postage prepaid to: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.

Christina Sukljian

/Christina Sukljian/

13 Manor Street

Albany, NY 12207

Date of Deposit: May 1, 2012
USPS Priority Mail

CERTIFICATE OF MAILING THROUGH ESTTA

I, Christina Sukljian, hereby certify that this NOTICE OF OPPOSITION is being filed electronically through ESTTA with The Trademark Trial And Appeal Board, United States Patent And Trademark Office, Alexandria, VA 22313-1451 on the date indicated below.

Date of Deposit: May 1, 2012

Signed: /Christina Sukljian/